

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

DAVID M. MORALES et al.,

Plaintiffs, Cross-Defendants and
Respondents,

v.

THEE AGUILA, INC.,

Defendant, Cross-Complainant and
Appellant.

G055104

(Super. Ct. No. 30-2011-00504723)

O P I N I O N

Appeal from a judgment of the Superior Court of Orange County, Ronald
L. Bauer, Judge. Appeal dismissed.

Law Office of Guinevere M. Malley and Guinevere M. Malley for
Defendant, Cross-Complainant and Appellant.

Zeiler Law Group and Kerry P. Zeiler for Plaintiffs, Cross-Defendants and Respondents.

* * *

Thee Aguila, Inc. (TAI) appeals from the judgment entered by the trial court based on the jury's verdict against TAI in favor of respondents, David M. Morales and his father, David Morales, Sr., on their contract claim against TAI. Respondents prevailed on their argument that the handwritten agreement drawn up by TAI's principal, Henry Aguila, an attorney, required Aguila to pay respondents' attorney for his legal services as part of a personal guarantee that respondents made to TAI to ensure TAI's food truck commissary would pass all necessary inspections and obtain a business license.

We grant respondents' motion to augment the record with a notice of ruling and other documents showing that TAI's appeal is untimely, which TAI does not dispute. After the trial court entered the judgment, TAI timely filed motions for a new trial and/or for judgment notwithstanding the verdict. The court heard and denied these motions on May 15, 2017. That same day, respondents served notice of the ruling on TAI, triggering the 30-day period in which to file an appeal (Cal. Rules of Court, rule 8.108(b)(1)(A) [new trial motion] & (d)(1)(A) [motion for judgment]), i.e., no later than June 14, 2017. TAI filed its notice of appeal on June 20, 2017, which was untimely. The timeliness requirement is jurisdictional. "We are powerless to extend the time to file a notice of appeal, or to hear untimely appeals." (*In re Marriage of Mosley* (2010) 190 Cal.App.4th

1096, 1101.) We therefore dismiss the appeal. Respondents are entitled to their costs on appeal.

GOETHALS, J.

WE CONCUR:

BEDSWORTH, ACTING P. J.

FYBEL, J.